

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

PRISCILLA J. TOLSON,

Plaintiff,

v.

WALMART INC., and
WAL-MART STORES TEXAS, LLC,

Defendants.

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Civil Action No. 3:24-cv-00311

DEFENDANTS' NOTICE OF REMOVAL

Defendants WALMART, INC. and WAL-MART STORES TEXAS, LLC respectfully submit this Notice of Removal for the purpose of removing the above-entitled action from the County Court at Law No. 3 of El Paso County, Texas, to the United States District Court for the Western District of Texas. As grounds for this Notice of Removal, Defendants state as follows:

I. PROCEDURAL HISTORY

1. Plaintiff commenced this action in the County Court at Law No. 3 of El Paso County, Texas, Cause No. 2024DCV3380, by filing her Original Petition and Jury Demand ("Original Petition") on July 23, 2024. A true and correct copy of Plaintiff's Original Petition is attached as **Exhibit A**. In the Original petition, Plaintiff specifically pleads that the amount in controversy is between \$200,000.00 and \$1,000,000.00. *Id.*

2. Service of process was effectuated on Defendants on August 9, 2024 [**Ex. A**].

3. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within thirty days of Defendants' receipt of a copy of the initial pleading.

II. DIVERSITY JURISDICTION

4. Pursuant to 28 U.S.C. § 1332(a), this Court has original jurisdiction over actions between citizens of different states where the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

5. Plaintiff is a resident, and therefore, a citizen of El Paso County, Texas [**Ex. A**].

6. Defendant Walmart, Inc. is a Delaware corporation with its principal place of business in Arkansas. Therefore, Walmart, Inc. is a citizen of the States of Arkansas and Delaware. Accordingly, there is complete diversity between Plaintiff and Defendant Walmart, Inc. 28 U.S.C. §§ 1332, 1441.

7. Although corporations are citizens of the state in which they are incorporated, partnerships and other unincorporated entities are citizens of all states in which their partners or members are citizens.

8. Defendant Wal-Mart Stores Texas, LLC is a Delaware limited liability company and is an indirectly, wholly-owned subsidiary of Walmart, Inc. The sole member of Wal-Mart Stores Texas, LLC is Wal-Mart Real Estate Business Trust. The sole unit holder of Wal-Mart Real Estate Business Trust is Wal-Mart Property Co., which is a wholly-owned subsidiary of Wal-Mart Stores East, L.P. Wal-Mart Stores East, L.P. is a Delaware limited partnership, of which WSE Management, LLC is the general partner and WSE Investment, LLC is the limited partner. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC (f/k/a Wal-Mart Stores East, Inc.), whose parent company is Walmart, Inc. The principal place of business of Walmart Stores Texas, LLC is Bentonville, Arkansas. Therefore, Wal-Mart Stores Texas, LLC is a citizen of the States of Arkansas and Delaware. Accordingly, there is

complete diversity of citizenship between Plaintiff and Defendant Wal-Mart Stores Texas, LLC. 28 U.S.C. §§ 1332, 1441.

9. Plaintiff is claiming damages for reasonable medical care and expenses in the past and future, past and future pain and suffering, physical impairment, and past and future emotional distress. [**Ex. A**]. Plaintiff seeks monetary relief of more than \$200,000.00 but no more than \$1,000,000.00. *Id.* Plaintiff also seeks punitive damages. Plaintiff's claim for damages, therefore, exceeds \$75,000.00, exclusive of interest and costs.

10. Because Plaintiff is a citizen of Texas and Defendants are citizens of Delaware and Arkansas, this Court has original jurisdiction over this action pursuant to the provisions of 28 U.S.C. § 1332(a)(1).

III. OTHER REMOVAL MATTERS

11. Defendants reserve the right to amend or supplement this Notice of Removal.

12. There have been no pleadings served upon Defendants other than Plaintiff's Original Petition.

13. This Notice of Removal is filed within 30 days of service upon Defendants of the Petition in compliance with 28 U.S.C. § 1446(b).

14. Pursuant to 28 U.S.C. § 1446(d), Defendants shall give Plaintiff written notice of the filing of this Notice of Removal and shall file a written notice of this Notice of Removal with the Clerk of the County Court at Law No. 3 or El Paso County, Texas, attaching a file-stamped copy of this Notice of Removal.

15. Pursuant to 28 U.S.C. §§ 1332 and 1446, this action is removable to the United States District Court for the Western District of Texas.

16. WHEREFORE, Defendants give notice that *Priscilla J. Tolson v. Walmart Inc. and Wal-Mart Stores Texas LLC*, Cause No. 2024DCV3380, in the County Court at Law No. 3 of El Paso County, Texas, is removed to the United States District Court for the Western District of Texas.

Respectfully submitted,

BLANCO ORDOÑEZ MATA & WECHSLER, P.C.
5715 Cromo Drive
El Paso, Texas 79912
(915) 845-5800
(915) 845-5555 (Facsimile)

By: _____

STEVEN J. BLANCO

State Bar No. 00796217

sblanco@bomwlaw.com

ROBERT M. ESTRADA

State Bar No. 24071886

restrada@bomwlaw.com

ALEJANDRA RODRIGUEZ GONZALEZ

State Bar No. 24123971

arodriguez@bomwlaw.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was delivered via ☒ electronic service ☐ hand delivery ☐ facsimile transmission ☐ regular United States Mail ☐ certified mail, return receipt requested, postage prepaid, as required by law, on the 30th day of August 2024 to the following parties or attorneys of record:

Angelica Carbajal
Sherr Legate, PLLC
420 E. San Antonio Ave., 2nd Floor
El Paso, Texas 79901
Telephone: (915) 241-0100
Facsimile: (915) 280-2242
Acarbajal@SherrLegate.com

Attorney for Plaintiff



ALEJANDRA RODRIGUEZ GONZALEZ